

Ordinance No.: 17-16  
Zoning Text Amendment No.: 12-03  
Concerning: Agricultural Zones -  
Wineries  
Draft No. & Date: 4 – 6/26/12  
Introduced: February 14, 2012  
Public Hearing: March 27, 2012  
Adopted: July 10, 2012  
Effective: July 30, 2012

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Rice, Floreen, and Elrich

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- revise the definition of a winery;
- revise the number of public events that a winery can hold annually as of right in certain zones; and
- generally amend the provision for wineries.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2     “DEFINITIONS AND INTERPRETATION.”  
Section 59-A-2.1     “Definitions.”  
DIVISION 59-C-9     “AGRICULTURAL ZONES.”  
Section 59-C-9.3     “Land Uses.”

<p><b>EXPLANATION:</b> <i><b>Boldface</b> indicates a Heading or a defined term.</i> <i><u>Underlining</u> indicates text that is added to existing law by the original text amendment.</i> <i>[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.</i> <i><u>Double underlining</u> indicates text that is added to the text amendment by amendment.</i> <i>[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.</i> <i>* * * indicates existing law unaffected by the text amendment.</i></p>
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## OPINION

Zoning Text Amendment No. 12-03 was introduced on February 14, 2012, sponsored by Councilmembers Rice, Floreen, and Elrich.

The purpose of ZTA 12-03 is to allow wineries in the RDT zone greater latitude on the number of public events allowed before a special exception is required. Currently, two public events are allowed before a special exception is required. In the opinion of the sponsors, limiting wineries to two public events per year is unduly restrictive in a zone where agriculture is the preferred use. ZTA 12-03 would increase the number of public events allowed for a winery to six before a special exception is required.

The Montgomery County Planning Board, in its report to the Council, did not make a substantive recommendation on ZTA 12-03. A recommendation to defer action on ZTA 12-03 was suggested by Planning Staff. In their view, more work was needed on both the definition of a winery and a public event.

The County Council held a public hearing on March 27, 2012 to receive testimony concerning the proposed text amendment. The Agricultural Advisory Committee (AAC) supported increasing the number of public events. In the opinion of the AAC, the number of public events could help to promote more wineries in the agricultural zones. The AAC also recommended adopting a definition of winery that avoids making the winery illegal in a year of total crop failure. A group of stakeholders was convened by Councilmember Rice. It included representatives from the only operating winery in the County, neighbors to the winery, civic associations, the Audubon Naturalist Society, the Department of Economic Development, the Department of Permitting Services, and the Planning Board. There were several general agreements among the group on the definition of a winery and the nature of a public event. There was no specific agreement on the numbers that should be associated with those metrics. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on June 25, 2012 to review the amendment; the Committee (3-0) recommended approval of ZTA 12-03 with amendments. In the opinion of the Committee, the definition of winery as introduced would have made a winery illegal in a year of a crop failure. The Committee agreed with the concept that a winery should be allowed in association with cultivating crops used to make wine. The Committee recommended revising the definition so that it would read as follows:

Winery: A facility for processing grapes or other fruit into wine for sale on site or through wholesale or retail outlets. At least 5 acres of grapes or other fruit must be grown on the same parcel as the processing facility.

In addition, the Committee recommended amending the provision for limiting the number of events at a winery, before a special exception is required, to read as follows:

Permitted by right if no more than two public events are held per year; however, in the RDT zone, a winery is permitted by right if:

- 1) no more than 9 days of events that require an entrance ticket or a cover charge are held per year; and
- 2) the lighting level at any property line does not exceed 0.1 footcandle.

The District Council reviewed Zoning Text Amendment No. 12-03 at a worksession held on July 10, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 12-03 will be approved as amended.

#### *ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

**Sec. 1. DIVISION 59-A-2 is amended as follows:****DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.****Sec. 59-A-2.1. Definitions.**

\* \* \*

Winery: A facility for processing grapes or other fruit into wine for sale on site or through wholesale or retail outlets. At least [[20 percent of the fruit used in the winemaking process must be grown on the site of the winery]] 5 acres of grapes or other fruit must be grown on the same parcel as the processing facility.

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**Sec. 2. DIVISION 59-C-9 is amended as follows:****DIVISION 59-C-9. AGRICULTURAL ZONES.**

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**Sec. 59-C-9.3. Land uses.**

No use is allowed except as indicated in the following table:

— **Permitted uses.** Uses designated by the letter “P” are permitted on any lot in the zones indicated, subject to all applicable regulations.

— **Special exception uses.** Uses designated by the letters “SE” may be authorized as special exceptions under Article 59-G.

	Rural	RC	LDRC	RDT	RS	RNC	RNC/TDR
* * *							
<b>(b) Agricultural-Industrial:</b>							
* * *							
Winery. <sup>38</sup>	SE/P	SE/P	SE/P	SE/P	SE/P	SE <sup>2</sup>	SE <sup>2</sup>
* * *							

<sup>38</sup> Permitted by right [provided] if no more than two public events are held per year; however, in the RDT zone, a winery is permitted by right if:

- (1) no more than [[6 public events]] 9 days of events that require an entrance ticket or a cover charge are held per year; and
- (2) the lighting level at any property line does not exceed 0.1 footcandle.

**Sec. 3. Enforcement.** The Director must count any advertised event on a winery site as a ticketed event unless the winery provides notice to the Director that states which advertised events will be ticketed events.

**Sec. 4. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council